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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,642	12/04/2003	Andreas Rinke	P24369	6203
7055	7590	01/13/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C.			SHARMA, RASHMI K	
1950 ROLAND CLARKE PLACE			ART UNIT	
RESTON, VA 20191			PAPER NUMBER	
			3651	
DATE MAILED: 01/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/726,642	RINKE ET AL.	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15-21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/14/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lifting device and adjustment device of claims 1 and 23, an angle between a rotational axis of said wobble plate and a rotational axis of said conveyor drum is changeable in claim 7 and 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Since there is no "lifting" of the seats or cigarettes, it is unclear as to which structure the Applicant is referring to when claiming a "lifting device".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 6, 8, 12, 13, 17, 18, 21 and 22 are objected to because of the following informalities: it appears as though the claims are replete with failing to provide proper antecedent basis after a structural element has already been introduced. All informalities found are as follows: claim 1 line 8 should recite “...in a longitudinal axial direction...”; claim 6 line 2 should recite “...in said longitudinal axial direction...”; claim 8 line 3 should recite “...between said rotational axis...”; claim 12 and 13 lines 1-2 should recite “...wherein said seats...” to be consistent with the language of claim 1; claim 17 lines 1-2 should recite “...comprising said at least one conveyor drum...”; claim 18 line 4 should recite “changing said spacing between...”; claims 21 and 22 lines 2 should recite “...of said at least one wobble plate...”; Appropriate correction is required. Please review the claims for additional informalities that might otherwise have been overlooked.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 8 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "angularly displaceable" in claim 7 is a relative term which renders the claim indefinite. The term "angularly displaceable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Further clarification is required.

The term "linearly and angularly" in claim 25 is a relative term which renders the claim indefinite. The term "linearly and angularly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Further clarification is required.

Claims 7 and 8 both recite "...is changeable". Exactly what is changeable? Does the Applicant intend to mean that each of the rotational axes be angled in a variety of positions? This terminology deems the claims vague and indefinite. Further clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 9-13, 15-21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Crosara (EP 1138215).

Crosara discloses a tobacco processing conveyor drum (spreading/sliding) for receiving axially aligned articles that are conveyed in a cross-axial direction toward said conveyor drum, said conveyor drum comprising a lifting device (see Figures 1-3) positioned to act on each fed row of articles for changing a longitudinal axial spacing of the articles by a predetermined longitudinal axial lift, an adjustment device (16) assigned to the at least one wobble plate (10) structured and arranged to adjust the predetermined longitudinal axial lift, seats (13) structured and arranged to move in the longitudinal axial direction, wherein the lifting device includes at least one wobble plate (10) displaceable in the longitudinal axial manner parallel to the articles, a drive (18) for the at least one wobble plate (10), further comprising seats (13) connected to the at least one wobble plate, wherein the seats (13) are arranged to move in the longitudinal axial direction and wherein at least two seats (13) are arranged for articles on a movable carriage (8, 15 or 17).

Crosara also discloses a process of changing a longitudinal axial spacing between axially aligned articles moving in a cross-axial direction comprising placing the articles on a plurality of aligned positionably adjustable seats (13) within a predetermined range, adjusting the predetermined range whereby the spacing between the positionably adjustable seats is changed to the adjusted predetermined range, longitudinally changing the position of at least one wobble plate located within the

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conveyor drum, a lifting device (see Figures 1-3) coupled to the plurality of the aligned positionably adjustable seats (13) and the wobble plate (10), wherein the adjustment device (16) is coupled to displace the at least one wobble plate (10) and wherein the adjustment device is arranged to displace the at least one wobble plate (10) linearly.

Allowable Subject Matter

Claim 14 has been allowed.

Independent claim 14 recites the structural limitation of a conveyor drum comprising said at least two seats or said carriage are connected to said wobble plate by a ball joint, in combination with the rest of the recited structure, clearly defines over the prior art.

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Dependent claim 22 recites the structural limitation of a conveyor drum comprising the changing of the position of at least one wobble plate comprises adjusting an angular position of the at least one wobble plate with the conveyor drum, in combination with the rest of the recited structure, clearly defines over the prior art.

Response to Arguments

Applicant's arguments filed 10/14/05 have been fully considered but they are not persuasive.

Regarding the drawing objections and the 112 second paragraph rejections, Applicant filed replacement sheets for Figures 2, 3 and 5, however it is still unclear as to how the wobble plates rotate about horizontal rotational axes 27.1 and 27.2. It appears as though the wobble plates are rotating about vertical axes, as indicated by the double arrows depicted in Figures 1 and 2. It is still unclear as to what structure rotates about 27.1 and 27.2 and exactly how the angle between axes 27.1 and 27.2 is changeable relative to axis 16. Further clarification is required.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., available life or the longitudinal axial displacement for the articles being fixed or not fixed, the predefined track cannot be changed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It should be noted that Applicant's structural arrangement in light of the drawings and specification as submitted do not in any way disclose an actual "lift" mechanism that is remotely capable of lifting any structure disclosed.

Applicant argues that Crosara's "predefined track" may not be changed, however this does not differentiate over whether or not Crosara meets Applicants claim limitations. Crosara as rejected above, does indeed disclose each and every claim limitation defined within the pending claims, including an adjustment device, thereby adjusting a predetermined longitudinal axial lift. The "lift" terminology the Applicant

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relies upon incorporates only a longitudinal sliding movement or a longitudinal displacement of the seats. Crosara's seats (13) move longitudinally linearly within slide (10) along carriages (8, 15 or 17). Ranges within a fixed path can and are still adjustable within the Crosara reference. Applicant argues that the Crosara reference shows a fixed path, however Applicant's structural arrangement also shows a fixed a fixed path. Applicant fails to argue and/or disclose the exact structural differences between the Crosara reference and Applicant's claimed invention as well as explicitly defining the "lift" structure, as there is nothing to differentiate Applicant's "lift device" with that of Crosara's. Therefore the arrangement of Crosara's structural limitations do indeed meet Applicants claim limitations as currently disclosed, as rejected above.

Conclusion

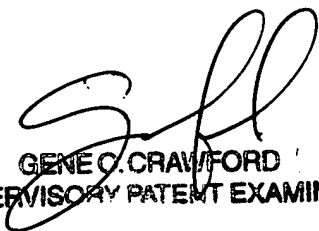
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rks


GENE C. CRAWFORD
SUPERVISORY PATENT EXAMINER

AMENDMENT TO DRAWINGS

The replacement sheets of drawings attached as part of the Appendix includes changes to Figures 2, 3, and 5. These sheets, which include Figures 1 – 5, replace the original sheet including Figures 1 – 5. In Figures 2, 3, and 5, reference planes 27.1, 27.2 have been added for wobble plates 17.1, 17.2, respectively.

Not Approved - RS



Application No. 10/726,642 Confirmation No. 6203
 Applicant: Andreas RINKE et al. Attorney Docket No. P24369
 Title: MULTIFUNCTIONAL CONVEYING DRUM
 Responsive to Official Communication dated: July 14, 2005
REPLACEMENT SHEET

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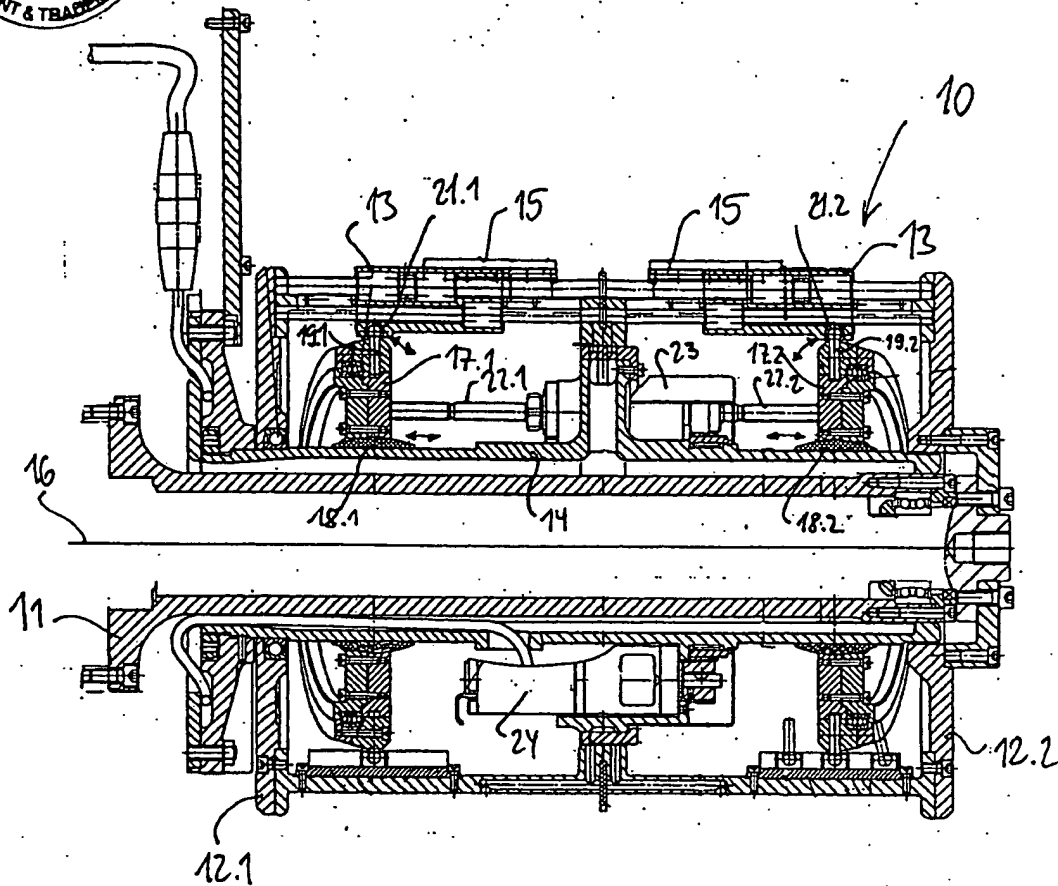


FIG. 1

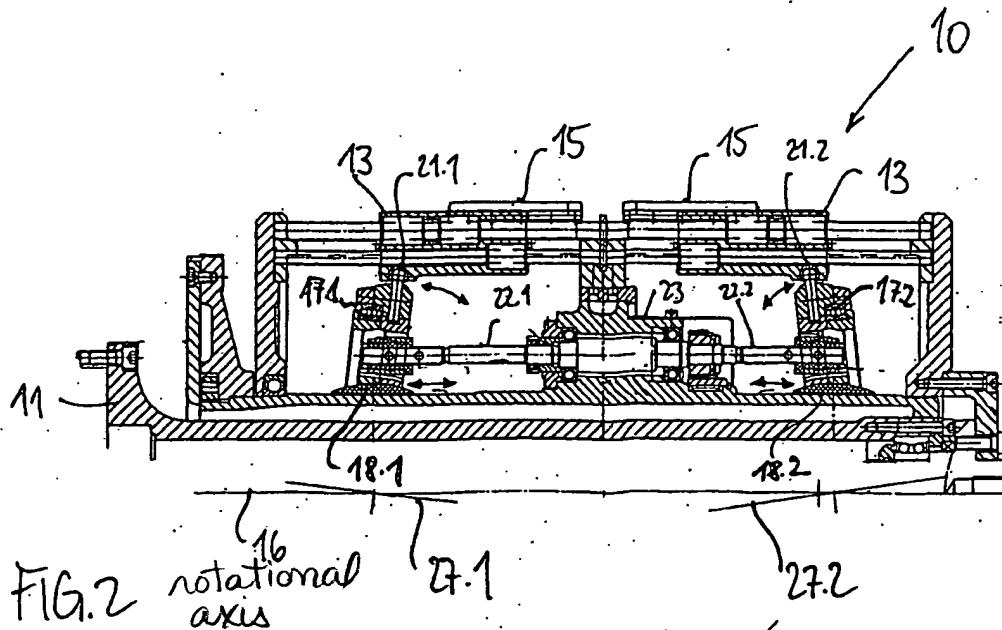


FIG. 2

rotational axis

27.1

27.2

rotational axes for the wobble plates



Application No. 10/726,642
Applicant: Andreas RINKE et al.
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Attorney Docket No. P24369
REPLACEMENT SHEET

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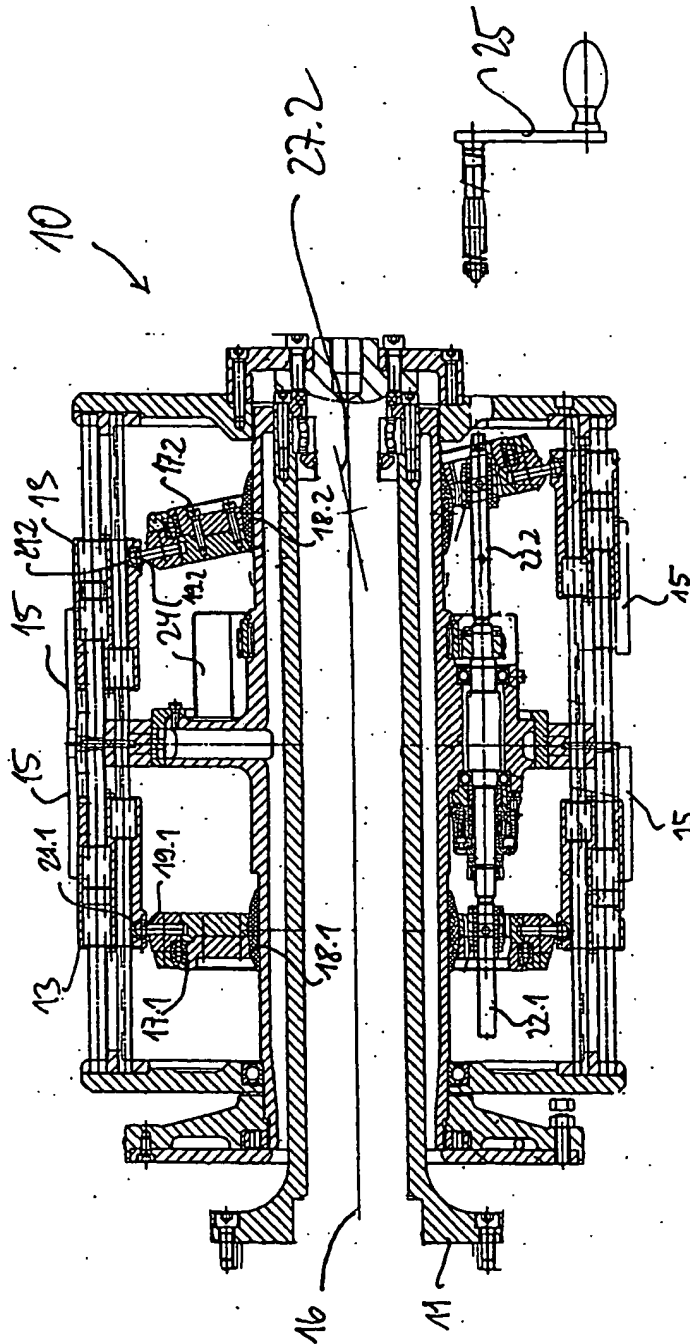


FIG. 3



Application No. 10/726,642
Applicant: Andreas RINKE et al.
Title: MULTIFUNCTIONAL CONVEYING DRUM
Responsive to Official Communication dated: July 14, 2005
REPLACEMENT SHEET

Confirmation No. 6203

Attorney Docket No. P24369

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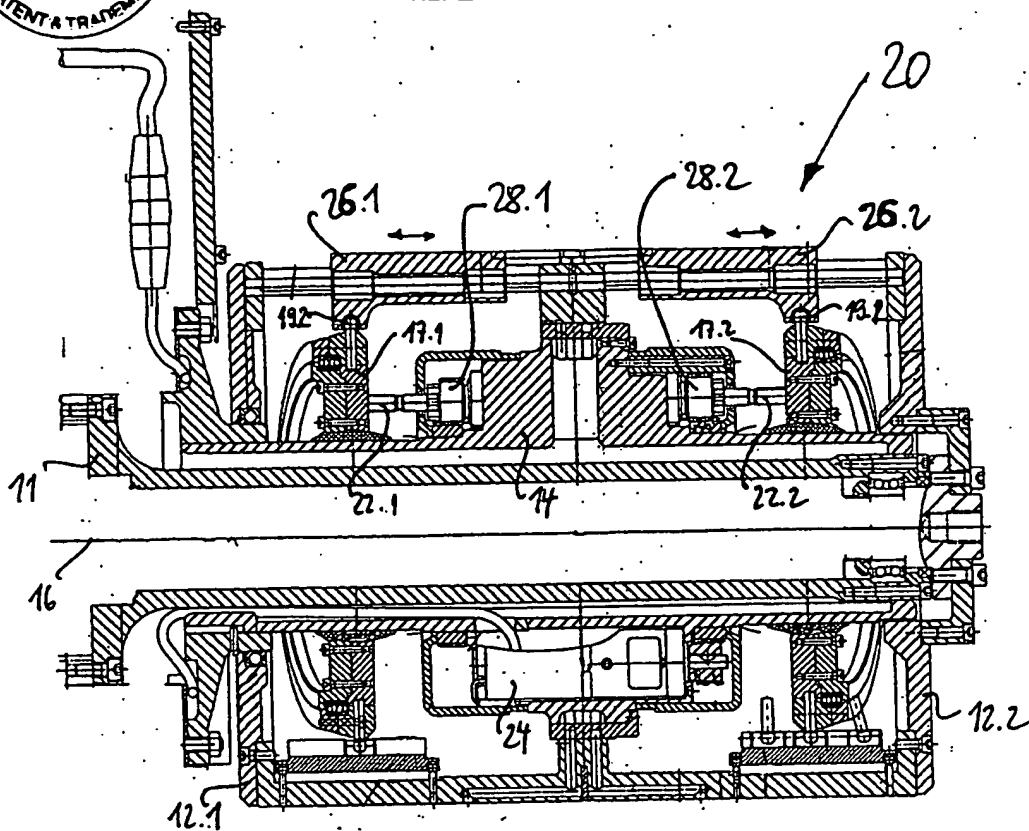


FIG. 4

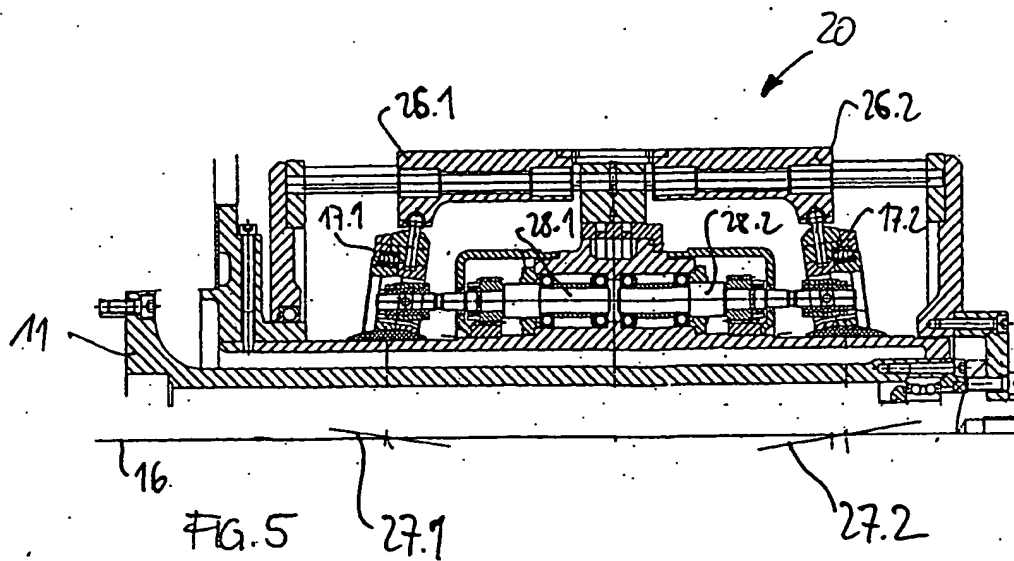


FIG. 5